DREIER LLP Michael B. Roth, Esq. (MR-7840) 499 Park Avenue New York, NY 10022 (212) 328-6100 Attorneys for Plaintiff

OF COUNSEL:

ALSCHULER GROSSMAN STEIN & KAHAN, LLP Michael Heimbold, Esq.
Yakub Hazzard, Esq.
1620 26th Street, 4th Floor, North Tower
Santa Monica, CA 90404-4060
(310) 907-1000

ROCK & REPUBLIC ENTERPRISES, INC.,

UNITED STATES DISTRICT COURT DISTRICT OF NEW JERSEY

Plaintiff, :

Civil Action No. 05-4169 (JAP)

VS.

Hon. Joel A. Pisano United State District Judge

RATIONAL FASHION, INC., and JOSH MOHRER

Motion Date: February 13, 2006

Defendants. :



PROPOSED DEFAULT JUDGMENT AND PERMANENT INJUNCTION

This matter having been opened to the Court by Dreier LLP, counsel for plaintiff Rock & Republic Enterprises, Inc. ("Plaintiff"), a California corporation with its principal place of business at 3525 Eastham Drive, Culver City, CA 90232, for a Default Judgment pursuant to Federal Rule of Civil Procedure 55(b)(2) against defendants Rational Fashion Inc. ("Rational"), a New York corporation and Josh Mohrer ("Mohrer") an individual, both with an address at 157 E. 3rd St., Apt.

A, New York, New York (collectively "Defendants"); and {00141655.DCC;2}

A summons and Complaint in this action having been personally served on Defendants on September 10, 2005, and Defendants having failed to answer or otherwise move with respect to the Complaint, and their time in which to do so having expired; and

The Clerk having entered a default of Defendants on November 23, 2005; and

This Court having considered the Complaint in this action, the Declaration of Michael B.

Roth supporting Plaintiff's motion for a default judgment, together with the exhibits thereto, and Plaintiff's Memorandum of Law in Support of Motion for Default Judgment, it is hereby

ORDERED, ADJUDGED AND DECREED that Plaintiff's motion for a default judgment is granted, and it is further

ORDERED, ADJUDGED AND DECREED hereby that:

- 1. Defendants are found to be liable to the Plaintiff for (a) counterfeiting and infringing Plaintiff's famous ROCK & REPUBLIC trademark, U.S. Registration No. 2,700,209 in violation of 15 U.S.C. §§ 1114 and 1117; (b) infringing Plaintiff's famous trade dress and making false designations of origin in violation of 15 U.S.C. § 1125(a), (c) diluting Plaintiff's famous ROCK & REPUBLIC trademark in violation of 15 U.S.C. § 1125(c); and d) infringing Plaintiff's ROCK & REPUBLIC trademark and trade dress in violation of the laws of the State of New Jersey, including N.J. Stat. §§ 56:4-1, 56:8-1, and 56:3-13.20 and the common law of the State of New Jersey.
- 2. Defendants are permanently enjoined, together with their officers, directors, principals, servants, employees, successors and assigns, and all those in active concert or participation with them, from:
- (a) imitating, copying or making unauthorized use of Plaintiff's ROCK & REPUBLIC trademark or trade dress; and
- (b) designing, manufacturing, purchasing, importing, exporting, distributing, {00141655.DOC;2}

circulating, selling, offering for sale, advertising, promoting or displaying any product bearing any simulation, reproduction, copy, counterfeit or colorable imitation of Plaintiff's ROCK & REPUBLIC trademark or trade dress; and

- (c) using any simulation, reproduction, copy, counterfeit or colorable imitation of Plaintiff's ROCK & REPUBLIC trademark or trade dress in connection with the promotion, advertisement, display, design, manufacture, purchase, sale, offering for sale, production, import, export, circulation or distribution of any product, in such manner as to relate or connect, or tend to relate or connect such product in any way with Plaintiff, or to any goods sold, sponsored, approved by, or connected with Plaintiff; and
- (d) using any simulation, reproduction, copy, counterfeit or colorable imitation of Plaintiff's ROCK & REPUBLIC trademark or trade dress in connection with the promotion, advertisement, display, design, manufacture, purchase, sale, offering for sale, production, import, export, circulation or distribution of any product, which serves to dilute, or tends to dilute, Plaintiff's images, trade names, trade dress or reputation or the distinctive quality Plaintiff's ROCK & REPUBLIC trademark or trade dress; and
- (e) making any statement or representation whatsoever, with respect to the infringing goods in issue, that falsely designates the origin of the goods or is false or misleading;
- (f) engaging in any other activity constituting unfair competition with Plaintiff, or constituting an infringement of Plaintiff's ROCK & REPUBLIC trademark or trade dress or of Plaintiff's rights in, or its right to use or exploit, such trademark or trade dress, or constituting any dilution of Plaintiff's ROCK & REPUBLIC trademark and the reputation and the goodwill associated with this trademark;

(g) engaging in any other activity, including the effectuation of assignments or

transfers of interests in simulations, reproductions, unauthorized simulations, copies, counterfeits or

colorable imitations of Plaintiff's ROCK & REPUBLIC trademark or trade dress, including the

formation of other corporations, partnerships, associations or other entities or the utilization of any

other devices, for the purpose of circumventing, evading, avoiding or otherwise violating the

prohibitions set forth in subsections 2(a) through 2(g) hereof;

3. Defendants are directed to deliver to counsel for Plaintiff for destruction all products,

labels, design tape, diskettes, computer programs, prints, signs, packages, dyes, wrappers, receptacles

and advertisements in their possession, custody or control bearing Plaintiff's ROCK & REPUBLIC

trademark or trade dress, and any plates, molds, matrices and other means of making such

simulations of such trademark or trade dress; and it is further

ORDERED, ADJUDGED AND DECREED that Defendants pay statutory damages to

Plaintiff in the sum of \$1,000,000 (One Million Dollars) plus reasonable attorney's fees and the costs

of this action.

The clerk of the court is hereby directed to enter this default judgment without further action

by the Court.

Dated:

New Jersey

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This document was entered

on the docket on _____